

### REMARKS

Claims 1, 3-12, 17 and 22-29 are pending in the present application. By this Amendment, previously presented claims 1, 3 and 9 have been amended; previously presented claims 2, 13-14, 16 and 18-21 have been cancelled; and new claims 22-29 have been added. Previously presented claims 8 and 11 are allowed. Applicants respectfully request reconsideration of the present claims in view of the following remarks.

#### I. Formal Matters:

##### Allowable Subject Matter

Applicants again note with appreciation that (1) claims 8 and 11 are allowed, and (2) previously presented claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### II. Prior Art Rejections:

##### Rejection of Previously Presented Claims 1-5, 9-10, 12 and 16 Under 35 U.S.C. §102(b) In View Of European Patent Application Publication No. 1 023 832 A1 (Aven)

Previously presented claims 1-5, 9-10, 12 and 16 were rejected under 35 U.S.C. §102(b) as being anticipated by European Patent Application Publication No. 1 023 832 A1 to Aven (hereinafter, “Aven”). This rejection is respectfully traversed.

In order for the disclosure of Aven to anticipate Applicants’ claimed invention as embodied in independent claim 1, the disclosure of Aven must disclose each and every claim feature recited in independent claim 1. See, for example, *Finnigan Corp. v. International Trade Commission*, 180 F.3d 1354, 1365, 51 USPQ2d 1001, 1009 (Fed. Cir. 1999), in which the Court stated “In order to establish anticipation, a prior art reference must disclose every feature of the claimed invention.”

The disclosure of Aven fails to disclose at least the following claim features recited in Applicants’ independent claim 1:

(1) an agrochemical concentrate comprising, *inter alia*, an anionic aliphatic carboxylate hydrotrope;

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(2) an agrochemical concentrate comprising, *inter alia*, an oil-based adjuvant that (i) is present at a concentration of greater than or equal to 10% by weight of the agrochemical concentrate and (ii) is selected from fatty alcohols, fatty acids or fatty amines and simple derivatives thereof; and

(3) an agrochemical concentrate comprising, *inter alia*, a ratio of the above-described oil-based adjuvant to the anionic aliphatic carboxylate hydrotrope of from 1:10 to 10:1.

For at least the reasons provided above, the disclosure of Aven fails to anticipate Applicants' claimed invention as embodied in independent claim 1. Since claims 3-5, 9-10 and 12 depend from independent claim 1 and recite additional claim features, the disclosure of Aven also fails to anticipate Applicants' claimed invention as embodied in dependent claims 3-5, 9-10 and 12 (previously presented claims 2 and 16 have been cancelled). Accordingly, withdrawal of this rejection is respectfully requested.

Rejection of Previously Presented Claims 6, 13-14 and 17-21 Under 35 U.S.C. §103(a) In View of Aven

Previously presented claims 6, 13-14 and 17-21 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of Aven. As noted above, previously presented claims 13-14 and 18-21 have been cancelled. This rejection is respectfully traversed with regard to claim 6 and 17.

The teaching of Aven also fails to teach or suggest at least the following claim features recited in Applicants' independent claim 1:

(1) an agrochemical concentrate comprising, *inter alia*, an anionic aliphatic carboxylate hydrotrope;

(2) an agrochemical concentrate comprising, *inter alia*, an oil-based adjuvant that (i) is present at a concentration of greater than or equal to 10% by weight of the agrochemical concentrate and (ii) is selected from fatty alcohols, fatty acids or fatty amines and simple derivatives thereof; and

(3) an agrochemical concentrate comprising, *inter alia*, a ratio of the above-described oil-based adjuvant to the anionic aliphatic carboxylate hydrotrope of from 1:10 to 10:1.

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There simply is no suggestion in the teaching of Aven, taken alone or in view of the general state of the art, that would have motivated one skilled in the art to formulate an agrochemical concentrate having a continuous water-containing phase, wherein the continuous water-containing phase comprises (1) an oil-based adjuvant and (2) an anionic aliphatic carboxylate hydrotrope, with the oil-based adjuvant (i) being present at a concentration of greater than or equal to 10% by weight of the agrochemical concentrate and (ii) being selected from fatty alcohols, fatty acids or fatty amines and simple derivatives thereof; and (3) a ratio of the oil-based adjuvant to the anionic aliphatic carboxylate hydrotrope is from 1:10 to 10:1, as recited in Applicants' independent claim 1.

In addition, Applicants respectfully submit that the teaching of Aven actually teaches away from Applicants' claimed invention as embodied in independent claim 1 given that the teaching of Aven specifically guides one skilled in the art to utilize adjuvants as disclosed in Aven (e.g., APGs) and their associated hydrotropes, not the oil-based adjuvants and anionic aliphatic carboxylate hydrotropes recited in Applicants' independent claim 1.

For at least the reasons given above, Applicants respectfully submit that the teaching of Aven fails to make obvious Applicants' claimed invention as embodied in independent claim 1. Since claims 6 and 17 depend from independent claim 1, and recite addition claim features, the teaching of Aven also fails to make obvious Applicants' claimed invention as embodied in claims 6 and 17. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection of Previously Presented Claims 1-6, 9-10, 12-14 and 16-21 Under 35 U.S.C. §103(a) In View of Aven

Previously presented claims 1-6, 9-10, 12-14 and 16-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable in view of Aven. As noted above, previously presented claims 2, 13-14, 16 and 18-21 have been cancelled. This rejection is respectfully traversed for claims 1, 3-6, 9-10, 12 and 17.

For at least the reasons provided above, the teaching of Aven fails to make obvious Applicants' claimed invention as embodied in independent claim 1. Since claims 3-6, 9-10, 12 and 17 depend from independent claim 1, and recite addition claim features, the teaching

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of Aven also fails to make obvious Applicants' claimed invention as embodied in claims 3-6, 9-10, 12 and 17. Accordingly, withdrawal of this rejection is respectfully requested.

III. New Claims 22-29:

New claims 22-29 depend from independent claim 1 and further recite features directed to specific embodiments of Applicants' claimed invention. Support for new claims 22-29 may be found in at least the following locations of Applicants' original specification: page 6, lines 5-7 (claim 22); page 6, lines 16-18 (claim 23); page 6, lines 9-10 (claim 24); page 9, lines 20-23, and original claim 8 (claim 25); page 9, lines 26-27, and original claims 4 and 10 (claim 26); page 9, lines 26-27, and original claims 5 and 10 (claim 27); page 9, lines 26-27, and original claims 6 and 10 (claim 28); and page 9, lines 26-27, and original claims 7 and 10 (claim 29).

For reasons similar to those provided above, Applicants submit that new claims 22-29 are allowable over the art. Accordingly, Applicants respectfully request allowance of these claims.

IV. Conclusion:

For at least the reasons given above, Applicants submit that claims 1, 3-12, 17 and 22-29 define patentable subject matter. Accordingly, Applicants respectfully request allowance of these claims.

Should Examiner Pryor believe that further action is necessary to place the application in better condition for allowance, Examiner Pryor is respectfully requested to contact Applicants' representative at the telephone number listed below.

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No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 503025.

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W&K Matter No.: 10075.0014USWO  
Syngenta Docket No.: 70257